

## **REMARKS/ARGUMENTS**

These Remarks are submitted in response to the Office Action mailed December 23, 2008. Applicant has canceled claims 2–10 without prejudice or disclaimer. Applicant reserves the right to file such claims in a continuation and/or divisional application. New claims 11–12 are supported by the disclosure at page 2, lines 24–28 of the originally filed specification. Applicant respectfully submits that the present amendment should be entered under 37 C.F.R. § 1.116 as it merely cancels rejected claims and adopts subject matter indicated to be enabled in the office action. New claims 11–12 are dependent claims and, as such, do not raise issues that would require further consideration and searching.

### ***Indefiniteness***

Claims 1–10 are rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Claims 2–10 have been canceled. With respect to claims 1–3 and 6, the examiner states that the claim has been rendered indefinite by the terms "treating," "treats," or "treat." These terms have been removed by amendment from claim 1. Applicant thus respectfully submits that the rejection of claims 1–10 under 35 U.S.C. § 112, second paragraph, should be withdrawn.

### ***Enablement***

Claims 1–5 are rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. Claims 2–5 are canceled. The Examiner states, at page 4 of the Office Action, that "it appears Applicant has demonstrated a method of treating hirsutism comprising administering an effective amount of a pharmaceutical composition comprising botulinum toxin A via injection to the upper lip of a person in need thereof wherein the administering of the claim-designated pharmaceutical composition reduced downy hairs on the upper lip of the treated person." The claims have been amended as follows: "A method for reducing hair growth in a patient suffering from hirsutism, comprising administering botulinum toxin type A to the upper lip of said patient in a quantity sufficient to reduce downy hair growth in said patient." Applicant submits that the claim, as amended, is enabled as it includes subject matter that was indicated to be enabled in the Office Action. Accordingly, the rejection of claims 1–5 under 35 U.S.C. § 112, first paragraph, for lack of enablement should be withdrawn.

*Anticipation*

Claims 6–8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pub. No. 2002/0177545 A1 ("Donovan"). Claims 6–8 have been canceled thereby rendering this ground of rejection moot.

Claims 6–9 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6299893 B1 ("Kinkelin"). Claims 6–9 have been canceled thereby rendering this ground of rejection moot.

Claims 6–8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,562,907 ("Schwartz"). Claims 6–8 have been canceled thereby rendering this ground of rejection moot.

Claims 6–8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pub. No. 2002/0028765 A1 ("Maurer"). Claims 6–8 have been canceled thereby rendering this ground of rejection moot.

**CONCLUSION**

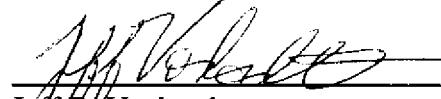
Entry of the foregoing and prompt and favorable consideration of the subject application on the merits are respectfully requested. The examiner is invited to contact the undersigned by telephone at 202-419-2021 to resolve any outstanding issues regarding this application.

Respectfully submitted,

Date: March 23, 2009

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